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Human rights situations that require the Council's attention

Report of the Special Rapporteur on the situation of human rights in Eritrea, Sheila B. Keetharuth

Summary

The present report is submitted pursuant to Human Rights Council resolution 23/21. It is based upon information that the Special Rapporteur on the situation of human rights in Eritrea gathered from a variety of sources, including Eritrean refugees interviewed during field missions in 2013 and 2014. In the report, the Special Rapporteur focuses on two main issues, namely, the indefinite national service and arbitrary arrest and detention, including incommunicado detention and inhumane prison conditions. In her view, the rampant human rights violations occurring in these contexts in Eritrea, which is causing hundreds of thousands to leave their country for an unknown and precarious future elsewhere, require the Human Rights Council's particular attention. The Special Rapporteur concludes the report with recommendations to the Government of Eritrea and the international community, aimed at addressing those concerns.

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Contents

		Paragraphs	*Page*
I.	Introduction	1–11	3
II.	Methodology	12–24	4
	A. Universal Periodic Review	15–19	4
	B. Brief update on the situation of human rights in Eritrea	20–24	5
III.	Refugee situation	25–27	6
IV.	National service	28–76	6
	A. Violations of Eritrea's human rights obligations under international law	35–49	8
	B. Conditions of national service that amount to human rights violations	50–68	11
	C. National service constituting forced labour	69–76	14
V.	Incarceration	77–98	15
	A. Arrest and deprivation of liberty	80–82	16
	B. Conditions of detention	83–90	17
	C. Women and children in custody	91–93	18
	D. Release from custody	94–95	19
	E. Challenging the legality of detention, recordkeeping and monitoring of detention facilities	96–98	19
VI.	Conclusions and recommendations	99–105	19
	A. Conclusions	99–102	19
	B. Recommendations	103–105	20

I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 23/21, following the renewal of the Special Rapporteur's mandate in June 2013. It focuses on two main issues, namely, the indefinite national service and arbitrary detention, which, in her view, require the Human Rights Council's particular attention, especially as they are two of the key reasons that incite Eritreans to leave their home country for an unknown and precarious future elsewhere.

2. The Special Rapporteur considers both issues from a human rights perspective, based on information she collected during her fieldwork and from documents already available in the public domain.

3. Since her appointment in November 2012, the Special Rapporteur has made several requests to visit Eritrea; her latest request was sent to the Government on 2 April 2014. So far, her requests have not been granted.

4. The Special Rapporteur welcomed the meeting with Eritrean diplomats in New York on 23 October 2013, which was the only opportunity she had to meet with Eritrean officials since the submission of her first report. The discussion centred around Eritrea's efforts to remain on track in achieving six of the eight Millennium Development Goals. The Special Rapporteur regrets that she did not receive a positive response to her latest request of 10 March 2014 to meet with representatives of the Permanent Mission in Geneva.

5. The Special Rapporteur firmly believes that the mandate offers the potential for Eritrea to be closely involved in efforts to find long-lasting solutions that are compliant with international standards for the respect of human rights in the country. Consequently, she endeavours to implement the mandate in a constructive, transparent, independent and impartial manner.

6. In an interactive dialogue on 24 October 2013, the Special Rapporteur briefed the Third Committee of the General Assembly on the findings of her first report (A/HRC/23/53), her long-term objectives for the mandate and respect for human rights in Eritrea, as well as the challenges that she faced in implementing the mandate.

7. During the reporting period, the Special Rapporteur attended several consultations on the human rights situation in Eritrea with various interlocutors from Governments, academia and civil society, in New York, Brussels, and Pretoria.

8. In October 2013, the Special Rapporteur submitted information on children's rights in Eritrea to the African Committee of Experts on the Rights and Welfare of the Child of the African Union, which monitors the implementation of the African Charter on the Rights and Welfare of the Child, in the context of its review of Eritrea's report. That submission was made in the context of establishing and maintaining contacts with regional human rights mechanisms working on issues related to the mandate of Special Procedures ensure exchange of information, coordination and mutual support in common areas of work.[1]

9. As invited to in Human Rights Council resolution 21/1, the Special Rapporteur further investigated the allegations contained in material submitted under the complaint procedure, which was transmitted to her. The material alleges widespread and systematic human rights violations in Eritrea, which the Special Rapporteur addressed in general in her first report to the Council. In the present report, the Special Rapporteur will address some

[1] See OHCHR, *Manual of Operations of the Special Procedures of the Human Rights Council* (August 2008), para. 130. Available from http://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx.

of the most pertinent human rights violations in more detail. Given the limited resources available to implement the mandate, the Special Rapporteur has not yet investigated further the allegation regarding the ongoing and systematic violations of the fundamental rights and freedoms of the Red Sea Afar people, one of the nine ethnic minority groups in Eritrea.

10. During the reporting period, given the lack of access to Eritrea, the Special Rapporteur collected first-hand information from Eritrean refugees residing in other countries. She sent visit requests to 21 Member States, seven of which responded positively. From 11 to 20 November 2013, the Special Rapporteur visited Tunisia and Malta, and from 17 to 28 March 2014, she visited Germany and Switzerland. The Special Rapporteur hopes to be able to honour the other three invitations in due course.[2] The Special Rapporteur would like to express her thanks to the Governments of the countries that have allowed her to meet with Eritrean refugees and migrants on their territories. She appeals to the 14 Member States that have not responded, or that have responded negatively, to grant her access in order to facilitate the delivery of her mandate.[3]

11. Many Eritrean refugees interviewed during the field missions described severe human rights violations that they had experienced along the escape routes. Although those violations are not the focus of the present report, they require serious scrutiny in another context.

II. Methodology

12. The Special Rapporteur considers that a visit to Eritrea would be the preferred method for carrying out a meticulous assessment of and gathering first-hand information on the situation of human rights in the country. However, since the Government continues to refuse to cooperate fully with the Special Rapporteur and to permit her access to the country, despite the Council's call in its resolution 23/21, she collated the necessary information through alternative means, as described in her first report.

13. The Special Rapporteur would like to thank all those who shared with her their personal, and often harrowing, experiences in their search for safety and enjoyment of their human rights. Many of them spoke with her in confidence on the understanding that their identities would not be revealed, which the Special Rapporteur is committed to fully respect.

14. The Special Rapporteur acknowledges the constructive discussions she had with numerous academics, diplomats, Eritreans in the diaspora, experts, human rights defenders and researchers, who provided valuable insights. The list would be too long to name each one individually. The Special Rapporteur also made every effort to engage with and seek the views of Eritrean community organizations, including inviting written submissions.

A. Universal Periodic Review

15. The Working Group on the Universal Periodic Review (UPR) carried out its second review of Eritrea on 3 February 2014. The Special Rapporteur welcomed Eritrea's high-level engagement in the review of its human rights record; however, Eritrea's poor performance with regard to implementing the recommendations made during the first

[2] From Italy, Libya and South Sudan.

[3] Those are Algeria, Chad, Egypt, Israel, Kenya, Kuwait, Morocco, Qatar, Saudi Arabia, South Africa, Sudan, Uganda, United Arab Emirates and Yemen.

review in 2009 demonstrates a lack of goodwill and commitment to address the serious human rights situation in the country.

16. The Special Rapporteur noted positively that, in 2012, Eritrea submitted reports to the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, and in January 2014, Eritrea requested the United Nations High Commissioner for Human Rights to deploy a working-level mission to the country. However, Eritrea has still not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, nor the Optional Protocol thereto, and the submission of several initial reports to human rights treaty bodies is still pending. No special procedures mandate holder has been invited to visit the country, despite numerous calls made during the first review and reiterated in the second one.

17. The Special Rapporteur takes note of Eritrea's efforts to eradicate the widespread practice of female genital mutilation/cutting (FGM/C) as well as the 416 FGM/C-related cases brought before the courts across the country.

18. During the UPR, Eritrea highlighted the progress made towards achieving several of the Millennium Development Goals; however, it is extremely difficult to verify that assessment, as no independent actors have been able to cross-check the data provided by the Government. Furthermore, the Special Rapporteur is concerned about whether the Government policies aimed at achieving the Millennium Development Goals are in line with Eritrea's obligations under international human rights law. The Special Rapporteur has requested information on the subject from the United Nations Resident Coordinator in Eritrea.

19. The Special Rapporteur encourages the Government of Eritrea to view the second UPR as a renewed opportunity to demonstrate its commitment to the promotion and protection of human rights and to address the numerous human rights challenges highlighted during the interactive dialogue, by accepting the recommendations made in their entirety.

B. Brief update on the situation of human rights in Eritrea

20. In her first report, the Special Rapporteur endeavoured to corroborate patterns of human rights violations through the gathering of first-hand information. She confirmed that violations of human rights in Eritrea included indefinite national service; arbitrary arrests and detention, including incommunicado detention; extrajudicial killings; torture; inhumane prison conditions; infringement to freedoms of movement, expression and opinion, assembly, association and religious belief; sexual and gender-based violence; and violations of children's rights. Information gathered for the present report confirms that the above-mentioned violations continue unabated.

21. Arbitrary arrests and incommunicado detentions were carried out in the aftermath of the attempted coup d'état on 21 January 2013, dubbed the "Forto incident". Over 50 people, including public figures were arrested and detained, with no information as to their whereabouts, nor have they appeared before any court of law.

22. There is still no information regarding the 11 members of the G-15, nor the 10 independent journalists who were arrested in 2001. The Special Rapporteur reiterates her request for specific information on their whereabouts and their state of health, especially in the context where some of them may have died in custody.

23. While freedom of the press and the media has been repressed, an underground newspaper, *The Echoes of Forto*, has been in circulation in Asmara, since September 2013, the anniversary of the 2001 arrests of the journalists from the independent press.

24. Guilt by association continued, with parents asked to pay substantial fines of 50,000 Nafka (ERN) for each family member who has left the country, although the parents often have no knowledge of their children's plans. In the high-profile case, in which the former Minister of Information failed to return to Eritrea after a trip abroad, his elderly father, his 15-year-old daughter and his brother were arrested and detained; they remain in detention to date.

III. Refugee situation

25. While there are numerous human rights violations that incite Eritreans to leave the country, the indefinite national service and arbitrary arrests and detention, or fear thereof, are the top push factors for flight. The fear and experience of a lengthy national service incite many Eritreans, particularly young people, but also older people, to leave the country in large numbers, a process that has started to deplete entire villages, and which has the potential of negatively impacting the country's social landscape.

26. An exponentially high number of people leave Eritrea, despite the life-threatening risks faced while attempting to flee the country and during flight. As at mid-2013, the Office of the United Nations High Commissioner for Refugees (UNHCR) estimated that the total population of concern originating from Eritrea was 313,375 people, including 292,969 refugees or people in refugee-like situations and 20,336 asylum seekers.[4] UNHCR estimates currently put the number of Eritreans fleeing their country each month at an average 2,000 people. Those statistics place Eritrea as the 10th highest refugee-producing country in the world; they include a high number of unaccompanied minors, whose plight was raised by the Special Rapporteur in her first report.[5]

27. Notwithstanding the non-refoulement principle enshrined in the 1951 Convention relating to the Status of Refugees (art. 33), and specific reference to prohibition of return ("refouler") in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 3), there have been reports of asylum seekers and refugees being returned to Eritrea "voluntarily". The language in article 3, paragraph 1, of the Convention against Torture is compelling: "No State shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". The competent authorities must take into account, "where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." Unsuccessful asylum seekers and other returnees, including national service evaders and deserters, face torture, detention and disappearance in Eritrea (see section IV.A below). It is therefore of paramount importance to end bilateral and other arrangements between Eritrea and third countries that jeopardize the lives of those seeking asylum.

IV. National service

28. In 1995, National Service Proclamation No. 82/1995 formalized national service in Eritrea. National service was viewed as a means of giving effect to the "historical responsibility" that "present and future generations" shoulder to preserve "a free and sovereign Eritrea as a legacy of thousands of martyrs" (preface). It took but a short time for national service to veer from its "noble objective" as a nation-building programme to

[4] See UNHCR – Eritrea. Available from http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e4838e6.
[5] A/HRC/23/53, para. 72.

become one of the main drivers spurring thousands of Eritreans to flee the country, despite the perils encountered on escape routes and a future fraught with uncertainty in foreign lands.

29. Article 5 of the Proclamation outlines the objectives of the national service, including: the establishment of a strong defence force; preserving the culture of heroism shown by the people during the armed struggle; creating hard working generations to participate in the reconstruction of the nation; enhancing the country's economic development by making use of its human resources; and promoting unity and nationalism.

30. The Proclamation stipulates that all Eritreans between the ages of 18 and 40 have the "compulsory duty to perform active national service", consisting of six months of military training and 12 months of active military service and development tasks in military forces for a total of 18 months (art. 8); reserve duties are foreseen until the age of 50. However, conscription for an indefinite period was institutionalized in 2002 with the introduction of the Warsai Yikaalo Development Campaign (WYDC).

31. The Proclamation specifies who may be exempted from national service: persons with disabilities (art. 15); nationals who fulfilled their national service obligation prior to the promulgation of the Proclamation; fighters and armed peasants who were actively involved in the liberation struggle (art. 12). It states that those declared unfit for military training shall perform 18 months of national service in an office setting and may be recalled to serve according to their capacity under mobilization or emergency situation directives (art. 13). Several categories may be eligible for temporary exemption or deferral of national service, including regular students enrolled in one of Eritrea's institutions of higher education (art. 14). There are additional policy exemptions, including for pregnant women and nursing mothers.

32. The clergy of all registered religions, namely, Catholic, Eritrean Orthodox, Lutheran and Islam, were originally exempted from national service, and in 1999, all clergy were issued with appropriate identification documents. However, a circular issued on 4 July 2005 by the Religious Affairs Department of the Ministry of Local Government officially revoked the exemption and ordered all clergy to report for military service. The Government also issued a number of new identification documents; those who did not receive one, either had to report for duty or flee the country. The conscription of the clergy continues to date.

33. Although some conscripts have purely military roles in the army, they also perform other duties, such as manual labour on agricultural farms or construction sites. The Eritrean authorities use military conscripts for manual labour as part of their "development programmes".

34. A large number of draftees under the authority of the Ministry of Defence are assigned to other ministries, and work in civilian administration, infrastructure projects, education, construction, and perform other duties; however, they do not choose their assignments or postings. In that sense, the Eritrean national service is much broader than military service, as it encompasses all areas of civilian life. Consequently, in the present report, the Special Rapporteur uses the terms "national service", "military service" and "conscription" interchangeably.

A. Violations of Eritrea's human rights obligations under international law

1. Length of service

35. As noted above, according to the National Service Proclamation, national service was initially supposed to last 18 months. However, following the war between Eritrea and Ethiopia (1998-2000), in 2002, the Government introduced the Warsai Yikaalo Development Campaign (WYDC), which extended the duration of conscription indefinitely. According to reports submitted by the Government of Eritrea to the International Labour Organization Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts), the population has been engaged in considerable programmes, within the framework of the WYDC, mainly in reforestation, soil and water conservation, as well as reconstruction activities, as part and parcel of food security programmes.[6] Both national service and the WYDC were originally viewed as means of "social change, economic development, socialization, national building and for transmitting the social and political values developed during 30 years of war".[7]

36. Since then, the Government has transformed the national service into an indefinite conscription, through which conscripts spend most of their working lives in the service of the State. A World Bank-funded demobilization project ended in 2005, with the demobilization of 60,000 soldiers. However, in the so-called "no war–no peace" context, the demobilization of the 200,000 soldiers envisaged by the project did not happen.[8] No further thorough demobilization programme has been undertaken to date.

37. The indefinite nature of the national service goes beyond the normal length as stipulated in the Proclamation and thus deprives conscripts of their liberty, in violation of article 9 of the International Covenant on Civil and Political Rights. In its jurisprudence, the Human Rights Committee stated that during a period of military service, restrictions exceeding the exigencies of normal military service or deviating from the normal conditions of life within the armed forces amount to deprivation of liberty.[9]

2. Forced recruitment

38. The military police carries out routine conscription round-ups, known as "*giffas*", in homes, workplaces, the street or other public places, with the aim of rounding up persons considered fit to serve, draft evaders and those who escaped from national service; including minors. Opposing such a round-up can lead to on-the-spot execution, as deadly force is permitted against those resisting or attempting to flee, in violation of the fundamental right to life, liberty and security of the person, provided for in article 3 of the Universal Declaration of Human Rights.

39. The Human Rights Committee has considered the forced recruitment of minors into militias and State armed forces as a violation of article 8 of the International Covenant on Civil and Political Rights and requested the State party concerned to provide information on

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[6] ILO CEACR, Direct Request concerning the Forced Labour Convention, 1930 (No. 29), 2010, 2nd para.

[7] Gaim Kibreab, "Forced Labour in Eritrea", *Journal of Modern African Studies*, vol. 47, No. 1 (2009), pp. 41–72.

[8] World Bank, *Eritrea - Demobilization and Reintegration Program Project* (Washington, D.C., 2009). Available from http://documents.worldbank.org/curated/en/2009/09/11217828/eritrea-demobilization-reintegration-program-project.

[9] See Human Rights Committee, Communication No. 256/1987, *Vuolanne* v. *Finland*, Views adopted on 7 April 1989, para. 9.4.

the steps taken to eliminate the forced recruitment of minors into the armed forces and rehabilitate and protect the victims (CCPR/C/COD/CO/3, para. 18).

3. Underage recruitment

40. According to the National Service Proclamation, the minimum age for recruitment into national service is 18 years (art. 6). On accession to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 16 February 2005, Eritrea made the following declaration: "The State of Eritrea declares that the minimum age for the recruitment of persons into the armed forces is eighteen years."[10] Despite this unequivocal declaration, children below the age of 18 are forced into conscription in Eritrea. Reportedly, in the 21st round (August 2007–February 2008) at the Sawa Military Training Camp, 3,510 of the 9,938 conscripts at the camp, disaggregated to 1,911 males and 1,599 females, were underage.[11]

41. The Human Rights Committee has already stated that recruitment and retention in service of a child soldier amounts to a deprivation of liberty under articles 8 and 9 of the International Covenant on Civil and Political Rights (CCPR/C/TCD/CO/1, para. 33). Specifically with regard to Eritrea, the Committee on the Rights of the Child (CRC) expressed concern over reports of forced underage recruitment and at the detention and ill-treatment of boys under the age [of 18] when they were required to serve their compulsory military service. It urged Eritrea to take all possible measures to prevent the recruitment of children and to enforce is legislation strictly (CRC/C/ERI/CO/3, paras. 70 and 71).

42. Grade 12 students are conscripted into the armed forces and undergo military training at the Sawa Military Training Camp. Reportedly some Grade 12 students may be below the age of 18, as the Grade 12 requirement is not based on age, but on performance in school, with many students reaching Grade 12 before their 18th year, including those who may have skipped earlier grades.

43. Those who do not reach Grade 12 are sent to other training sites. Students, both male and female, who drop out of school before reaching Grade 12 are likely to receive "an invitation" to sign up for military training, through the local administration. Minors, some as young as 15 years old, are often picked up during round-ups and sent for military training to Wi'a and other places, with no prospect of release because of their young age, even if parents provide documents, such as a birth certificate, as a proof that the child is underage.

4. Draft evasion and desertion

44. The penalties for draft evasion and desertion can be up to five years imprisonment.[12] The wording of the Proclamation violates several obligations that Eritrea has undertaken to respect under international law, including freedom of movement, the right to property and the right to work. Citizens who avoid national service by "escaping abroad" and who do not return until the age of 40 will be "liable to punishment or to imprisonment of 5 years until the age of 50 and their rights to licence, visa, land tenure and work will be suspended."

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[10] See United Nations Treaty Collection, Status of ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Available from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

[11] See the Translation of the Report of the Commander of the Sawa Military Training Camp to the Office of the Eritrean President (original document dated 30 June 2008). Available from www.arkokabay.com/news/index.php?otion=com-content&view+article&id=254.

[12] Eritrea National Service Proclamation No. 82/1995, art. 37.

45. In practice, draft evaders, as well as deserters who are caught or deported back to Eritrea face heavy punishment, including lengthy periods of detention, torture and other forms of inhumane treatment. After the period of detention, they are forced back into the army. Exact figures relating to national service evaders who have been executed or have died in prison from injuries during incarceration are not available.

5. Reprisal against family members

46. In cases where draft evaders and deserters remain untraceable, members of their families are often punished instead, in line with the "guilt by association" policy. Such reprisal can take the form of an obligation to pay 50,000 ERN (approximately USD 3,350), a sum that most Eritreans cannot afford, and/or a family member may be detained for an undefined period of time until the amount is paid. Other types of reprisal include suspension or non-renewal of business licences, which can lead to the closure of businesses, or taking possession of the property belonging to the family.

6. Conscientious objection

47. Under international law, the right to conscientious objection to military service[13] is derived from article 18 of the International Covenant on Civil and Political Rights, to which Eritrea has been a party since 2002. States that practice conscription must either offer exemption for conscientious objectors or ensure the availability of an alternative non-punitive civilian service. Eritrean law does not provide for conscientious objection and many Eritreans are forced into military service, despite their conscientious objections based on religion or belief.

48. Refusal to serve is severely punished by detention in harsh conditions. Members of certain non-recognized religious groups are subjected to persecution and discrimination as a means of coercion into military service.

49. In October 1994, a presidential directive effectively suspended the civil, political, social and economic rights of Jehovah's Witnesses, following their refusal to vote in the 1993 independence referendum and their subsequent announcement that they would participate only in non-military aspects of national service. They could no longer access services available to other Eritrean citizens. Most significantly, Jehovah's Witnesses were denied the official identity cards necessary for the registration of births, deaths and marriages, purchasing property, and obtaining passports, internal and external travel permits and commercial licences. Those who decline military service are detained indefinitely, and those caught meeting in private for prayers face detention and harassment even today, including children and the elderly. At least 56 Jehovah's Witnesses are currently incarcerated in Eritrea, including three who have been incarcerated since 1994.[14]

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[13] See OHCHR, *Conscientious objection to military service*, (New York and Geneva, 2012) (HR/PUB/12/1). Available from http://www.ohchr.org/Documents/Publications/ConscientiousObjection_en.pdf.

[14] See A/HRC/23/22, paras. 54 and 55.

B. Conditions of national service that amount to human rights violations

1. Right to life and security of the person

50. The lives of those serving in the military should not be avoidably put at risk "without a clear and legitimate military purpose".[15] A common punishment in Eritrea for military offences such as desertion, absence without official leave or overstaying of leave without permission and self-harming to avoid national service is exposure to extreme climatic conditions, which may in effect lead to death. The Special Rapporteur has not been able to confirm whether an independent and prompt inquiry into any suspicious death or alleged violation of the right to life is carried out.

2. Arbitrary arrest, detention and torture

51. Military service escapees, as well as perceived offenders, are frequently sent to one of numerous prisons as punishment; Wi'a prison camp, situated on the Red Sea coast, south of Massawa, is a notoriously harsh one. Punishment amounting to torture, inhuman or degrading treatment, as well as detention in inhumane conditions appears to be the norm, even for trivial cases. National service conscripts in detention are also used for hard labour.

52. In addition, procedural guarantees need to be firmly assured. Those in service should be pertinently made aware of what constitutes disciplinary offences, the procedures to be followed at disciplinary hearings, safeguards and guarantees for those facing a charge to defend themselves, the competent authority for imposing punishment in case of breach, which should be proportionate to the offence.[16] Finally, the right to appeal any punishment should be provided for and the act of appealing should not be another occasion for further retaliation.[17]

3. Women in national service

53. The military draft also applies to women. Women are particularly vulnerable and at risk of sexual violence during military service by both officers with responsibilities in the chain of command and by peers.

54. Army commanders force women to submit to their sexual advances; those who resist are usually punished in different ways, including psychological violence, through harsh treatment; assignment to unduly heavy military duties or denial of leave to visit family. In addition to their regular military duties, women are also expected to perform domestic chores, such as cooking and cleaning for military commanders, who often use female conscripts as maids.

55. Women face severe consequences following sexual violence during national service: those who become pregnant are sent back to their families and face stigmatization and reclusion, as those responsible for the pregnancies are not accountable. Given that sexual assault and rape are not usually discussed, in order to protect family reputation, a culture of silence perpetuates a climate of impunity. In addition to the fact that rape is a criminal offence, all those acts amount to a violation of the right to dignity that is inherent to every human being.

56. Furthermore, fear of national service, fueled by knowledge about sexual violence against women during national service, is so widespread that many young girls deliberately

[15] See Council of Europe, "Appendix to Recommendation CM/Rec (2010) 4", para. 6, in *Human rights of members of the armed forces*, (2010).

[16] Ibid.

[17] See International Covenant on Civil and Political Rights, art. 14.

drop out of school so as to marry and have children, or their families may force them to do so as a means of "saving their daughters". Such a strategy has a negative impact on the education of girls, many of whom are unable to access further education and are thus forced to accept low-skilled jobs.[18] Women who have been recruited into national service tend to adopt the same strategies to be demobilized as early as possible. Exemption from military service for nursing mothers has encouraged early pregnancies.

4. Situation in Sawa

57. Sawa Military Training Centre is Eritrea's main military training institution, combining a school, a military training camp and a detention facility. High school students (Grade 12), both male and female, must spend one year at Sawa to be able to complete their course of studies. Only those who complete military training, reportedly three months, at the Sawa Military Training Centre after Grade 11 are allowed to continue their education.

58. The fact that students are required to spend their last year of secondary schooling at Sawa and undergo three months of military training during that period is proof that even the right to education has a compulsory military component attached to it. Owing to the harsh conditions at Sawa Military Training Centre, some students have tried to escape, even if the risk of being caught and facing severe punishment are high. Students at Sawa are subjected to various types of violations, some amounting to torture, inhuman or degrading treatment and corporal punishment. There have been reports of students falling ill and dying or committing suicide.

5. Freedom of movement

59. Freedom of movement is curtailed in Eritrea. The checking of identification papers at control points indicates the level of restraint and monitoring that citizens of Eritrea, including national service conscripts, are required to endure. Conscripts need a pass to travel throughout the country.

60. Further to article 17 of the National Service Proclamation, travel outside of the country is restricted for those in national service. A national under the obligation of national service may be allowed to travel abroad upon providing a certificate of completion of or exemption from national service, or by putting up a sizable sum of money as bond. The Ministry of Defence is responsible for implementing this provision.

6. Freedom of opinion, expression and information

61. The right to freedom of expression includes freedom to hold opinions and receive and impart information. While those rights and freedoms are not unfettered, any restrictions and conditions thereon should only be those provided by law and which are necessary in a society where the rule of law prevails (art. 19, para. 3, International Covenant on Civil and Political Rights). In Eritrea, punitive and disproportionate treatment is meted out to conscripts for expressing their views on the indefinite nature of national service, raising questions about the detention of peers or their living conditions.

7. Freedom of thought, religion and belief

62. The practice of one's religion while performing military service is prohibited, in violation of Eritrea's international obligations under article 18 of the Covenant. Those

[18] See David Bozzini, "National Service and State Structures in Eritrea", agreed minutes of presentation (16 February 2012). Available from http://www.ejpd.admin.ch/content/dam/data/migration/laenderinformationen/herkunftslaenderinformationen/afrika/eri/ERI-agreed-minutes-bozzini-e.pdf.

found reading religious books are punished by detention in conditions which can amount to torture. As indicated above, even clerics are required to perform national service and carry arms, a situation that has adversely affected religious institutions, both churches and mosques, and has also proven to be a traumatizing experience for them. The conscription of clerics and laypersons has occasioned a personnel shortage for pastoral work.

8. Violations of economic, social and cultural rights

63. **Right to work:** Technically speaking, all those in national service are under the responsibility of the Ministry of Defence, even if they are deployed for service in civilian spheres of life. The Ministry of Education is involved in the deployment of civilian jobs, as such assignment depends on the level of education of the individual involved.

64. The salary and allowances for dependants during the national service is so low that recruits are unable to fend for themselves or support their families. The monthly pay during the initial six months of military training and the subsequent 12 months of active service is 50 ERN, with an additional 45 ERN provided to supplement food rations.[19] Conscripts are paid 450 ERN during national service deployment, after the initial 18 months. Former fighters have a different salary scale, starting with 750 ERN, while a major, for example, can earn 1,700 ERN/month. If a conscript was employed in the civil service before entering military service, he would receive his civil service salary, which is pegged to a different scale; however, even those may fall short of the requirement of "just and favourable conditions of work", as provided for under article 7 of the International Covenant on Economic, Social and Cultural Rights.

65. **Right to housing, health care and food**: Living conditions of conscripts are harsh. They face extreme weather situations without adequate housing or clothing adapted for the prevailing climatic conditions. Food rations are inadequate, in both quality and quantity. While medical facilities are available in the barracks, there is a lack of medication and trained personnel. For those in remote locations, referral to hospitals in main towns can take time. Eritrea is thus not meeting its obligations under article 11 of the International Covenant on Economic, Social and Cultural Rights, which provides for the right to an adequate standard of living, including the right to adequate food, clothing and housing, for everyone, including members of the military.

66. **Right to marry and found a family**: The low pay and the indefinite nature of national service have an incidence on the right to marry and found a family, a fundamental right protected under article 23 of the International Covenant on Civil and Political Rights and article 10 of the International Covenant on Economic, Social and Cultural Rights. Many national service conscripts are unmarried as they have been in service throughout their working life. Furthermore, it is unlikely that the salary of a conscript meets the requirements of article 23, paragraph 3, of the Universal Declaration of Human Rights, which states that everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity.

67. To put things in perspective, in Asmara, access to water and electricity remain a challenge, as taps regularly run dry and water can cost 10 ERN per barrel. The electricity bill can reach 450 ERN a month, even if power cuts are recurrent and can last for several hours daily. The price of food is soaring: one *quintal* (about 100 kg) of teff flour, which is used to make *injera*, the local staple bread, costs over 10,000 ERN. Other items, such as kerosene for cooking, are unavailable. The rent for a two-bedroom house can start at 1,500

[19] The official exchange rate as at 9 April 2014 was 1 US$ = 14.88 ERN; however, the black market rate is 1 US$ = 45 ERN.

ERN. Families survive through remittances from abroad, however, for those who do not get supplementary funds, it is a daily struggle to make ends meet.

68. **Impact on families and communities**: Conscripts are posted far from their families and homes, which makes it difficult to maintain personal contacts; for example, a teacher may be posted to a remote and distant location. Compulsory national service takes away sons who should be tending family farms, which causes financial crises in farming communities. By depriving families of labour and income, everyone is put in a situation of struggling to survive and to meet basic daily needs. Conscripts and soldiers are granted leave on a discretionary basis, which may be arbitrary, so that they often work longer than 12 months without being granted leave to visit their families; and they can be denied leave arbitrarily. If they overstay their leave, even for one day, or go on leave without permission, they are usually arrested and detained.

C. National service constituting forced labour

69. A number of human rights instruments contain standards and principles relating to forced labour. The Universal Declaration of Human Rights states that no one shall be held in slavery and servitude (art. 4) and further states that everyone has the right to free choice of employment (art. 23, para. 1). Those rights are further developed in other United Nations instruments, including the International Covenant on Civil and Political Rights (art. 8) and the International Covenant on Economic, Social and Cultural Rights (art.6, para. 1), as well as in regional instruments, including the African Charter on Human and Peoples' Rights (art. 5). Forced labour is also prohibited by the ILO Forced Labour Convention (No. 29) and the Abolition of Forced Labour Convention 1957 (No. 105), both of which Eritrea has ratified.

70. Under international human rights law, conscription, per se, is not covered by the prohibition of forced labour. Indeed, the International Covenant on Civil and Political Rights states that "no one shall be required to perform forced or compulsory labour" (art. 8, para. 3 (a), and for the purposes of that paragraph, the term "forced or compulsory labour" shall not include "any service of a military character" (art. 8, para. 3 (c) (ii)).

71. However, national service in Eritrea does not constitute service of a purely military character. Furthermore, conscription for military service is normally for a reasonable period of time, from one to three years, and not of an indefinite character. Since the length of national service in Eritrea is of an indefinite nature, it effectively constitutes forced labour as provided for in article 8, paragraph 3 (a) of the Covenant.

72. The ILO Committee of Experts has, on several occasions, discussed whether national service in Eritrea constitutes forced labour. Article 2 of ILO Convention No. 29 defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".

73. National service in Eritrea is involuntary in nature, as explicitly stated in the National Service Proclamation: "any Eritrean citizen from 18 to 50 years of age has the obligation of carrying out national service" (art. 6). There are very few exemptions to this requirement (art. 12) and conscripts are recruited without their consent to perform military service. The compulsory nature of national service in Eritrea is further highlighted by the *giffas*, which are aimed at rounding up those who try to avoid conscription. Furthermore, the lack of conscientious objection demonstrates the absence of any element of voluntariness.

74. As of the age of 18 years, Eritreans are obliged to carry out national service, under threat of a penalty. Draft evaders and deserters are punished by harsh and arbitrary penalties, including detention, physical violence, sometimes amounting to torture, and the

refusal of family leave for very long periods of time. Alleged or actual failure to execute tasks during national service is also severely punished. The disproportionate nature and the fact that such punishments constitute torture, cruel, inhuman or degrading punishment are clear violations of human rights. Accordingly, national service conscripts live in constant fear, the threat of severe penalties, sometimes of a life-threatening nature, being part of their daily lives.

75. Conscripts are not free to leave national service before they have been officially demobilized. However, as already indicated, there is no comprehensive demobilization programme in Eritrea (see section IV.A.1 above) and many conscripts serve in the military for most of their working lives for a paltry salary.

76. Furthermore, the ILO Committee of Experts has already discussed whether Eritrean national service may constitute an exception to the definition of forced labour, as stipulated in ILO Convention No. 29.[20] The Committee of Experts has examined the following exceptions under article 2, paragraph 2: compulsory military service for work of a purely military character; cases of emergency, including war and calamities, such as fire, flood or famine; and minor communal services performed by the members of the community in the direct interest of the community. For compulsory military service to be considered as an exception to forced labour, work imposed on conscripts has to be of purely military character. In order to make sure that, in practice, compulsory military service is not diverted from its objective, the ILO Committee of Experts has repeatedly requested the Government of Eritrea to indicate what guarantees are provided to ensure that services exacted under compulsory military service laws are used for purely military ends. The Committee of Experts has also considered that compulsory national service in Eritrea exceeds the limits of the exception provided for in article 2, paragraph 2 (d), of ILO Convention No. 29 relating to work imposed in cases of emergencies. In that respect, the ILO Committee of Experts has urged the Government to take the necessary measures, "both in law and in practice, to limit the exaction of compulsory work or services from the population to genuine cases of emergency, or force majeure, that is, to circumstances endangering the existence or the well-being of the whole or part of the population, and to ensure that the duration and extent of such compulsory work or services, as well as the purpose for which it is used, is limited to what is strictly required by the exigencies of the situation".[21] Finally, the ILO Committee of Experts has pointed out that the existing large-scale and systematic practice of imposing compulsory labour on the population within the framework of the national service programme is also incompatible with ILO Abolition of Forced Labour Convention No. 105, which prohibits the use of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development.[22]

V. Incarceration

77. The Special Rapporteur continued to collect information on arrests and detention conditions, as these are inextricably linked to national service, given the high number of evaders and deserters and persons held in lieu of family members in Eritrea's prisons. The Special Rapporteur was unable to obtain statistics pertaining to the prison population or to the accurate number of detention facilities. The non-availability of statistics relating to both

[20] Article 2, paragraph 2, of the Convention refers to five types of work or service which, while amounting to "forced or compulsory labour" as defined in the Convention, are considered exceptions to forced labour.

[21] See ILO CEACR, Direct Request concerning the Forced Labour Convention, 1930 (No. 29), 2010, 5th para.

[22] Ibid.

the prison population and detention facilities speaks volumes in terms of transparency that should be inherent in any system of incarceration based on the rule of law.

78. The Special Rapporteur uses the terms "detention facility", "detention centre" or "place of detention" interchangeably, and in a broad manner, to include any location where a person is kept in custody, including prisons, police stations, prisons or holding cells where military personnel are held or any other place where the liberty of an individual is restricted or curtailed, insofar as he or she is not allowed to leave at will. Detention centres are staffed by military personnel (army corps, army division, and army border surveillance unit), the police, as well as the staff of the Eritrean Correctional and Rehabilitation Services, all of whom are national service conscripts.

79. While the term "detainee" sometimes refers only to those at the pretrial stage, and not to convicted prisoners, it is used herein in the broadest possible manner to mean any individual who is deprived of his/her liberty and held in a detention facility, following arrest, pretrial detention or conviction. Other terms used interchangeably in the present document include "person in custody", "people in custody" and "prisoners".

A. Arrest and deprivation of liberty

1. People deprived of their liberty

80. In Eritrea, the police, the military police and internal security regularly arrest and detain citizens without due process and often use force while doing so. Detainees are held in underground prisons or in metal shipping containers, in extreme weather conditions, or in secret detention places. Political prisoners or prisoners of conscience are held without being informed of the reasons for their arrest and without an arrest warrant. They are not formally charged with a recognizable crime, nor brought before a court of law to review the legality of their detention nor tried, in contravention of article 9 of the International Covenant on Civil and Political Rights. Others, such as draft evaders, are presumed to know the reason for their arrest and detention, and the punishment(s) provided for in article 37 the National Service Proclamation are applied in their case. Those persons do not have any recourse to challenge the legality of the detention.

2. Methods of arrest

81. Methods of arrest differ, depending on circumstances. For example, those who overstay their official leave or who desert national service, may be track them down in their homes and villages by the security forces, and taken to a holding cell or prison, then back to their military unit, where they will be held. Many people are arrested at the border while attempting to cross into neighbouring countries; people are often arrested at night and taken to secret detention places, without family members knowing of their whereabouts or being able to visit them. Furthermore, people are afraid to enquire about the whereabouts of their loved ones, lest they too are arrested and detained.

3. Presumed reasons for arrest and detention

82. In Eritrea, people are arrested and detained without any formal charges. Therefore most people can only speculate about the reasons for arrest and detention; the following reasons are cited frequently : (a) evading or deserting national service and military conscription; (b) overstaying leave while serving in national service; (c) during *giffas* – round ups to conscript people by force into the military; (d) attempting to flee the country; (e) trumped up charges of "plotting to leave the country" or helping others to flee; (f) failing to pay a fine when a family member has fled the country; (g) held in lieu of a parent or family member having left the country; (h) inability to produce identification documents

on demand; (i) journalists, for their work; (j) practicing a religion not recognized by the State; (k) failed asylum seekers and refugees who are returned to Eritrea; (l) actual or perceived critics of State policies or practice; (m) those arrested on suspicion of having participated in the attempted coup of 21 January 2013 (Forto incident), among others.

B. Conditions of detention

83. Detention entails restriction on the right to liberty and freedom of movement, and is permitted by law only in very strict circumstances. Additional safeguards are laid down in article 9 of the International Covenant on Civil and Political Rights to protect against arbitrariness and providing for those detained to be able to question the legality of such detention. International law prescribes that persons in detention should continue to enjoy their guaranteed fundamental freedoms and human rights, including their right to human dignity,[23] and the detaining authority shall ensure that the needs of detainees in custody are met.[24]

84. Severe overcrowding in prisons is a major issue that spawns several other problems relating to the health, hygiene and nutrition of those in custody: 80 inmates can be held in an underground cell of 10 m by 15 m, with poor ventilation, no windows or light. The holding cells have no sanitation facilities and prisoners are only allowed out for very short periods to use the toilet. Personal hygiene is a serious concern in such circumstances, with detainees suffering from body lice, scabies or other skin infections, and prone to respiratory complaints or diseases and diarrhoea. Medical facilities are minimal and detainees with chronic health problems do not have easy access the right kind of medication or treatment, thus endangering their lives. Referral to hospitals takes time.

85. Food is of poor nutritional quality and inadequate in quantity, thus exposing those in custody to malnutrition. Meals invariably consist of bread and lentils and access to drinking water is limited. Inmates sleep on the floor without proper bedding.

86. Torture and ill-treatment are prevalent, with prisoners being more vulnerable during the early days in custody, for example, during interrogation and investigation, if any. The Special Rapporteur briefly described methods of torture used, in her previous report.[25]

87. In its UPR report, Eritrea stated that torture was criminalized in the domestic legal system and that "evidence collected under such event is inadmissible in courts of law".[26] However, in practice, there is no legal recourse nor measures to prevent torture concretely. Furthermore, Eritrea has still not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it had undertaken to do during the first UPR cycle.

88. Incommunicado detention and solitary confinement are also prevalent, their non-transparent nature raising many questions, especially with regard to aspects of solitary confinement that are not regulated by law. Isolation can be construed as inhuman or degrading treatment or torture, if a prisoner is held in solitary confinement for an extended period of time.[27] Several questions may also be raised in connection with health issues; for example, as to whether a medical examination is carried out before and/or during such

[23] Basic Principles for the Treatment of Prisoners (1990), General Assembly resolution 45/111, annex.

[24] United Nations Standard Minimum Rules for the Treatment of Prisoners (1955).

[25] See A/HRC/23/53, para. 55.

[26] A/HRC/WG.6/18/ERI/1, para. 48.

[27] See Human Rights Committee, general comment No. 20 (1992) on article 7 of the International Covenant on Civil and Political Rights.

confinement, and whether detainees held in isolation have access to a doctor on request. More importantly, there is no appeal or review system in Eritrea for solitary confinement.[28]

89. Contrary to international standards, it is exceptional for family and friends to have access to those held in custody in Eritrea. Indeed, families are not informed of where their relatives are being held, for what reason, nor for how long they will be kept in custody. Inmates themselves may not have such information. The detaining authorities regularly move prisoners from one prison to another, sometimes very far from their family base, and consequently, they may not get visits for the entire duration of their detention, which can last for months and even years. Contact with family is random, and usually dependent on the goodwill of released detainees to provide family with information.

90. While prisoner deaths occur due to deterioration in health and inadequate medical treatment, poor sanitation or torture, secrecy and lack of access to records make it impossible to determine the exact number of deaths in custody. Some families learn about the fate of their relatives only when informed of their death in custody, though not of the cause of death. Sometimes, released detainees face the dilemma of whether or not to inform family members of the death of their loved ones for fear of reprisal or simply because they do not have the courage to dishearten parents or spouses. Contact with family and friends is not a privilege, but a right for all those in custody, and prisoners should not be deprived of that right or prohibited from communicating with the outside world as a disciplinary measure.

C. Women and children in custody

91. Female detainees are usually accommodated separately from men within the same institution; however, the Special Rapporteur has not been able to ascertain whether the premises allocated to women are entirely separate, more specifically with regard to hygiene facilities. The same conditions as described above apply to women detainees, which indicates that the Eritrean authorities have failed to take into account their protection and special needs, in direct contravention of the provisions set out in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

92. Women detainees are reportedly under the responsibility of male staff mainly, as the majority of the guards at detention centres are men, which exposes them to multiple forms of abuse, including sexual violence, rape or threats of rape and sexual harassment. The specific reproductive health needs of female detainees are not accorded attention. Some young children are held with their mothers, and in the case of lactating mothers, the poor quality of food makes it difficult to ensure proper nutrition for their infants.

93. Although there is a juvenile detention centre in Asmara, children below 18 years, especially those rounded up during *giffas*, are held with adults in detention centres before being transferred to a military training camp. They are subjected to the same harsh regime as adults during detention. Deprivation of liberty, even of children, is not used as a measure of last resort, but as a matter of course, in violation of article 40, paragraph 4, of the Convention on the Rights of the Child, a key provision in juvenile justice.

[28] Association for the Prevention of Torture, *Monitoring places of detention: a practical guide*, (Geneva, April 2004), page 109.

D. Release from custody

94. Eritrea holds numerous detainees without charge or due process. Some detainees are still in prison after over a decade, and others have died in detention. There are reports of many detainees being released without a court process or trial.

95. Release from detention may occur in the following circumstances, although re-arrest and detention anew are possible, inter alia: (a) on providing proof of completion of national service by a family member; (b) on payment of a fine of 50,000 ERN in respect of a family member who has left the country; (c) upon a family member or third person stands as guarantor; (d) upon a family member or third person putting up their house or property as guarantee; (e) after being threatened with torture or degrading treatment for continued religious practice, even of State-approved religious faiths; (f) after renouncing religious faith, if not of one of the four State-approved religions; (g) upon completion of length of "sentence"; (h) just before death due to torture or poor health during detention.

E. Challenging the legality of detention, recordkeeping and monitoring of detention facilities

96. Detention without recourse to justice is common in Eritrea as there are no avenues for detainees to submit complaints to judicial authorities or to request investigation of credible allegations of inhumane conditions or torture. There is no independent authority serving on behalf of detainees. Furthermore, detainees and family members do not challenge, let alone ask about reasons for, detention, for fear of reprisals.

97. While minimal records are kept on arrival at a detention facility, recordkeeping procedures are not systematic, making it impossible to ensure that prisoners are not held beyond the maximum sentence for an "offence", or to ascertain whether there has been a court process at all. Official registration and recordkeeping for each person in custody is a primary tool for ensuring transparency and protecting the detainee, and would ensure that prisoners are not "forgotten" in custody, if the officer who put them in custody can no longer be contacted.

98. The State does not investigate or monitor conditions in detention centres, nor do they permit independent monitors to do so. The Special Rapporteur emphasizes that independent monitoring of prisons is an important requirement stipulated in a number of international conventions and standards, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Standard Minimum Rules for the Treatment of Prisoners. Monitoring can be implemented in a number of ways, including through judicial oversight, setting up of statutory bodies, such as independent inspectorates and Ombudsman offices, civil society initiatives, such as boards of visitors, or international monitoring.

VI. Conclusions and recommendations

A. Conclusions

99. **Eritrea lives in a state of constant preparedness for combat based on what the State terms as a "no war–no peace" situation. The Special Rapporteur does not wish to elaborate on war or the threat thereof because, as indicated in her first report, she**

holds the view that border issues should not serve as an excuse for the Government to violate the rights of its citizens within its own territory.[29]

100. Eritrea's "no-war–no peace" rhetoric provides the context for: (a) the non-implementation of the Constitution that was ratified by the Constituent Assembly in 1997; (b) withholding the organization of free and fair elections at the national level; (c) severe restrictions on civil, political, economic and social rights, as well as a lack of economic opportunities; (d) excessive militarization of society, with a high proportion of the population either in indefinite national service or the People's Militia; (e) forced migration.

101. The violations described in the present report are committed with impunity. Although structures and procedures may be in place, victims do not feel confident that perpetrators will be brought to justice. Moreover, while it is the prerogative of defence forces to set down their own disciplinary rules and procedures, these should be compliant with the human rights obligations that the State has agreed to protect, promote, respect and fulfil.

102. Each of the above-described violations has a human impact and relates to a human story. No matter what the circumstance, even when deprived of their liberty, people must be treated with humanity and with respect for the inherent dignity of the human person. Finally, all rules should embody the principles of fairness and justice and should conform to the basic principle that human rights attach to all human beings always, with restrictions permissible only according to the tenets of the rule of law.

B. Recommendations

103. The recommendations contained in the Special Rapporteur's first report (A/HRC/23/53) still stand, as the Government of Eritrea has not demonstrated its willingness to take them into consideration and to act upon them. The Special Rapporteur calls on the Human Rights Council to take cognizance of the fact that Eritrea has shown no cooperation with the mandate entrusted to her.

104. The Special Rapporteur makes the following recommendations to the Government of Eritrea:

(a) Respect all obligations under international human rights treaties to which Eritrea is a party; ratify and implement other international human rights instruments, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;

(b) Bring the provisions of the 1995 National Service Proclamation No. 82/1995 and the Warsai Yikaalo Development Campaign into line with international human rights standards;

(c) Discontinue the indefinite national service, demobilize those who have completed the 18 months of service originally envisaged, and stop using national service conscripts who serve more than 18 months as forced labour;

(d) Ensure that children are not being conscripted into the military;

(e) Promptly investigate allegations of extrajudicial killings, torture, rape and sexual abuse within the national service, and bring perpetrators to justice;

[29] A/HRC/23/53, para. 26.

(f) Provide for conscientious objection by law, in accordance with international norms;

(g) Put an immediate end to human rights violations committed against conscripts during national service, including freedom of expression and freedom of religious practice;

(h) Stop the practice of "guilt by association" and the punishment of the families of draft evaders and deserters, including the exacting of the payment of 50,000 ERN;

(i) Close all unofficial and secret places of detention; guarantee the physical integrity of all prisoners; ensure access to medical treatment for those in need, paying special attention to the needs of women detainees; and improve the conditions of detention in accordance with international standards;

(j) Immediately release, or charge and bring before a court of law, the members of the "G-15" and the journalists arrested in 2001;

(k) Immediately permit unhindered access by international monitors to all detention facilities; allow them to conduct regular and unannounced visits; and act upon their recommendations promptly;

(l) End restrictions on the freedom of movement within Eritrea and travel outside the country without requiring an exit permit and treat returnees according to the principles of human right enshrined in international law.

105. **The Special Rapporteur makes the following recommendations to the international community:**

(a) Ascertain that all development cooperation undergoes stringent due diligence processes to ensure that it fully respects international human rights norms and standards;

(b) Businesses investing in Eritrea should take into consideration the United Nations Guiding Principles on Business and Human Rights, in particular principle 12 on the responsibility of business enterprises to respect human rights, and ensure that these norms are applied in the recruitment of their workforce, so as to prevent the use of forced labour in the course of their operations;

(c) Bilateral and multilateral actors, including the United Nations, should advocate for the release of all political prisoners and those detained for their religious beliefs; call for an immediate stop to incommunicado detention; an end to torture; for those who have been detained without charges to be promptly brought before a judge or released; and for access of international monitors to prisons;

(d) Strengthen efforts to ensure the protection of those fleeing Eritrea, in particular unaccompanied children, by respecting the principle of non-refoulement and by granting at least temporary refuge or protection;

(e) Promote legitimate channels of migration from Eritrea so as to reduce clandestine channels and promote inter-country cooperation to counter human smuggling and trafficking.